

This action is in response to RCE filed 09 March 2010.

Response to Arguments

Applicant's arguments filed 09 February 2010 have been fully considered.

Regarding Applicant's arguments to 35 U.S.C. 101 rejections of claims 6-9, Examiner disagrees. Applicant argues that because the signals are present on physical media, that they are statutory. Examiner argues that it is still the data carrier or signal that is being claimed, and therefore the claims contain non-statutory subject matter. Examiner suggests claiming the storage medium on which the signals are located to traverse these rejections.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 4-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed toward non-statutory subject matter. The claims are directed toward a signal, which is not a process, machine, manufacture, or composition of matter. Examiner suggests inserting the wording "stored in a non-transitory storage medium" and "non-transitory" where appropriate (as previously discussed with Applicant in interview dated 10 March 2010).

Claims 7-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed toward a signal, which is not a process, machine, manufacture, or composition of matter.

Allowable Subject Matter

Claims 1-3 are allowed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL J. DIGIOVANNI whose telephone number is (571)270-7508. The examiner can normally be reached on Monday-Thursday 7:30AM-5:00PM and every other Friday from 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J DiGiovanni/
Examiner, Art Unit 2461
/Huy D Vu/
Supervisory Patent Examiner, Art Unit 2461